## AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003-04 REGULAR SESSION

## ASSEMBLY BILL

No. 1310

## Introduced by Assembly Member Dutton (Principal coauthor: Assembly Member Benoit)

February 21, 2003

An act to repeal Section 1773.9 amend Sections 1724, 1771, and 1773 of the Labor Code, relating to wages.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1310, as amended, Dutton. Public works: prevailing wages. Existing law generally requires the payment of the general prevailing rate of per diem wages to workers employed on public works projects costing over \$1,000, unless the awarding body, as defined, elects to initiate and enforce a labor compliance program, as defined, for every public works project under the authority of that awarding body. Existing law generally defines "public works" to include construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds.

This bill would exempt from the prevailing wage requirements prefabrication work done at permanent offsite facilities of a contractor.

Existing law provides the methodology that the Director of Industrial Relations is required to use to determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed, including the rate for holiday and overtime work.

This bill would repeal these provisions thereby relegating to the Director of Industrial Relations the authority to establish the methodology for determining these rates.

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Existing law also requires, if the applicable wage rates established by collective bargaining agreements or the rates predetermined for federal public works in the locality are different from the general prevailing rate of per diem wages in the locality, that the Director of Industrial Relations obtain and consider further data from the labor organizations and employers associations, including the recognized collective bargaining representatives for the particular craft, classifications, or type of work involved.

This bill would modify the methodology for ascertaining the general prevailing rate of per diem wages by requiring the Director of Industrial Relations to consider only the applicable wage rates established by collective bargaining agreements and the rates that may have been predetermined for federal public works within the locality or, if that data is unavailable or insufficient, in the nearest labor market area. This bill would define "the nearest labor market area" as a locality the population of which is similar to that of the locality in which the public work is done.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1773.9 of the Labor Code is repealed.

2 SECTION 1. Section 1724 of the Labor Code is amended to 4 read:

- 1724. (a) "Locality in which public work is performed" means the county in which the public work is done in cases in which the contract is awarded by the State, and means the limits of the political subdivision on whose behalf the contract is awarded in other cases.
- (b) "The nearest labor market area" means a locality the population of which is similar to that of the locality in which the public work is done.
- SEC. 2. Section 1771 of the Labor Code is amended to read: 1771. (a) Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work

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1 fixed as provided in this chapter, shall be paid to all workers 2 employed on public works.

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- (b) This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This
- (c) This section is applicable to contracts let for maintenance work.
- (d) This section does not apply to prefabrication work that is done at permanent offsite facilities of contractors.
- SEC. 3. Section 1773 of the Labor Code is amended to read: 1773. (a) The body awarding any contract for public work, or otherwise undertaking any public work, shall obtain the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which the public work is to be performed for each craft, classification, or type of worker needed to execute the contract from the Director of Industrial Relations. The holidays upon which those rates shall be paid need not be specified by the awarding body, but shall be all holidays recognized in the applicable collective bargaining agreement. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code.

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(b) In determining the rates, the Director of Industrial Relations shall ascertain and consider the applicable wage rates established by collective bargaining agreements and the rates that may have been predetermined for federal public works, within the locality and in the nearest labor market area. Where the rates do not constitute the rates actually prevailing in the locality, the director shall obtain and consider further data from the labor organizations and employers or employer associations concerned, including the recognized collective bargaining representatives for the particular craft, classification, or type of work involved. The rate fixed for each craft, classification, or type of work shall be not less than the prevailing rate paid in the craft, classification, or type of work. or, if the information regarding the wage rates within the locality is not available or insufficient, the Director of Industrial Relations shall ascertain and consider the applicable wage rates established

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by collective bargaining agreements and the rates that may have been predetermined for federal public works within, first, the nearest labor market area, and if necessary, next within a locality with a population that is most similar to that of the nearest labor market area.

If the director determines that the rate of prevailing wage for any craft, classification, or type of worker is the rate established by a collective bargaining agreement, the director may adopt that rate by reference as provided for in the collective bargaining agreement and that determination shall be effective for the life of the agreement or until the director determines that another rate should be adopted.